IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 533 OF 2006

Rampratap Ramacharaj Yadav.] .. Petitioner

Versus

1. The State of Maharashtra & 3 ors.] .. Respondents

Ms. Maharukh Adenwala for the petitioner.

Mr. M. More, AGP, for the respondent No.1.

Mr. R.M. Sawant, Govt. Pleader for respondent No.3.

Ms. S. Ajit Kumar for respondents No.2 and 4.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.

DATED: 27TH MARCH, 2006

P.C. :

. Rule. Heard forthwith.

2. Petitioner's structure was demolished on 10th December, 2003. Petitioner contends that the petitioner was entitled for a photopass and consequently to be rehabilitated. The claim of the petitioner for a photopass and consequently alternative accommodation was rejected by order dated 29th June, 2005. The petitioner principally relied on the Ration Card dated 16th

February, 1990. The competent authority, however, noted that Government on 21st May, 2005, had directed that only Ration Card should not be considered while deciding the eligibility of hutment dwellers. It was noted that the name of the petitioner was not appearing in the Electoral Roll of 1/1/1995 and that the petitioner otherwise had not produced conclusive and exclusive proof of his residence in the suit premises to consider the petitioner as eligible. It is this order which is the subject matter of the present challenge.

3. On behalf of the petitioner, learned counsel submits that the reason based on which the petitioner's claim has been rejected is clearly contrary to the Government Resolution dated 11th July, 2001 in the matter of issuance of photopass. Under condition No.3(3), there is a note which reads as under: "Slum dwellers whose names are not there in the Electoral Roll of 1/1/1995, but who have the necessary proof (eg. electricity bill, telephone bill, sales tax business, income tax or payment of other taxes, ration card etc.) showing the existence of a hut prior to 1/1/1995 and the fact that they were residing in that hut will be issued a photopass". Relying on this, learned counsel submits that Government itself has accepted Ration Card to be a document based on which, a photopass could be issued.

Those entitled to rehabilitation are those who have a photopass which was issued in proof of their residence previous to 1/1/1995.

4. On the other hand, on behalf of the respondent, it is submitted that it has come to the knowledge of the Government that bogus Ration Cards have been issued and based on these bogus Ration Cards, persons who are otherwise not eligible, are claiming right to a photopass and rehabilitation. In order to discourage and/or to prevent such bogus Ration Card holders from getting benefit of the Government decision of rehabilitation, that decision was taken. It is, therefore, submitted that considering the facts and circumstances, this Court ought not to interfere.

5. We have heard learned counsel for the parties. Once a Government Resolution (G.R.) is issued, that would be pursuant to the administrative power of the State. That G.R. would be binding on the State. That G.R. could be amended by another G.R. or by any other form of subordinate legislation. Mere decisions at a meeting cannot result in giving a go-by to the G.R. Whatever be the laudable object or reason as to why the Government took a decision not to rely upon the Ration Card, the effect would be that even otherwise, those who

may be genuinely entitled and who have only a Ration Card in proof of their residence would be denied the same. That is not the objective of the Government Resolution dated 11th July, 2001, which is the Resolution pertaining to a photopass. It could be understood if an enquiry was conducted and on enquiry the competent authority, based on the information made available by the authority issuing the Ration Cad, arrived at a conclusion that the Ration Card was fabricated, false and/or bogus. In that event, that document could have been rejected. If the document, on verification, is found to be genuine, we see no reason as to why such a genuine document cannot be considered. It perhaps would still be open to the competent authority, if there is other strong documentary evidence on record to show that the petitioner was not residing on 1/1/1995 and that the Ration Card is bogus or fabricated, then to discard the same. We are saying this only considering that there may be a large number of cases where such documents may be in existence. That, however, does not mean and can never mean that a person having a Ration Card which is genuine has to have his case rejected because of the decision taken in a meeting. On the law, as it stands today, and as long as the G.R. is in force, the Ration Card would be a document which will have to be given its due weightage.

6. We are clearly, therefore, of the opinion that the decision of the competent officer in rejecting the claim of the petitioner will have to be set aside. We remand the matter back to the competent officer - respondent No.4 to reconsider the case of the petitioner according to law and in the light of what we have set out above and thereafter to proceed and dispose of the same at any rate not later than 16 weeks from today.

7. Rule made absolute accordingly. There shall be no order as to costs.

Sd/-
[F.I. REBELLO, J.]

Sd/-
[ANOOP V. MOHTA, J.]